

## § 31.3231(e)-2

tax under section 3221 if the individual rendering the service has not previously rendered service, other than as a delegate, which may be included in the individual's years of service for purposes of the Railroad Retirement Act.

(3) For special provisions relating to the compensation of certain general chairs or assistant general chairs of a general committee of a railway-labor-organization employer, see paragraph (c)(3) of § 31.3231(b)-1.

[T.D. 8582, 59 FR 66191, Dec. 23, 1994, as amended by T.D. 9092, 68 FR 54361, Sept. 17, 2003]

## § 31.3231(e)-2 Contribution base.

The term *compensation* does not include any remuneration paid during any calendar year by an employer to an employee for services rendered in excess of the applicable contribution base. For rules applying this provision, see § 31.3121(a)(1)-1.

[T.D. 8582, 59 FR 66191, Dec. 23, 1994]

## Subpart D—Federal Unemployment Tax Act (Chapter 23, Internal Revenue Code of 1954)

### § 31.3301-1 Persons liable for tax.

Every person who is an employer as defined in section 3306(a) (see § 31.3306(a)-1) is liable for the tax. Even if an employer is not subject to any State unemployment compensation law, he is nevertheless liable for the tax. However, if he is subject to such a State law, he may be entitled to certain credits against the tax (see §§ 31.3302(a)-1 to 31.3302(c)-1, inclusive). For provisions relating to payment of the tax, see Subpart G of the regulations in this part.

### § 31.3301-2 Measure of tax.

The tax for any calendar year is measured by the amount of wages paid by the employer during such year with respect to employment after December 31, 1938. (See § 31.3306(b)-1, relating to wages, and §§ 31.3306(c)-1 to 31.3306(c)-3, inclusive, relating to employment.)

[T.D. 6658, 28 FR 6632, June 27, 1963]

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### § 31.3301-3 Rate and computation of tax.

(a) The rates of tax with respect to wages paid in calendar years after 1954 are as follows:

	Percent
In the calendar years 1955 to 1960, both inclusive .....	3
In the calendar year 1961 .....	3.1
In the calendar year 1962 .....	3.5
In the calendar year 1963 .....	3.35
In the calendar year 1964 and subsequent calendar years .....	3.1

(b) The tax is computed by applying to the wages paid in a calendar year, with respect to employment after December 31, 1938, the rate in effect at the time the wages are paid.

[T.D. 6658, 28 FR 6632, June 27, 1963]

### § 31.3301-4 When wages are paid.

Wages are paid when actually or constructively paid. Wages are constructively paid when they are credited to the account of or set apart for an employee so that they may be drawn upon by him at any time although not then actually reduced to possession. To constitute payment in such a case the wages must be credited to or set apart for the employee without any substantial limitation or restriction as to the time or manner of payment or condition upon which payment is to be made, and must be made available to him so that they may be drawn upon at any time, and their payment brought within his own control and disposition. See § 31.6011(a)-3, relating to the return on which wages are to be reported.

### § 31.3302(a)-1 Credit against tax for contributions paid.

(a) *In general.* Subject to the provision of paragraphs (b) and (c) of this section and to the provisions of § 31.3302(c)-1, the taxpayer may credit against the tax for any taxable year the total amount of contributions paid by him into an unemployment fund maintained during such year under a State law which has been found by the Secretary of Labor to contain the provisions specified in section 3304(a); *Provided, however,* That no credit may be taken for contributions under a State